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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,542	03/09/2005	Bernd Wilms	107.12-0091	8434
27367 7590 11/23/2007 WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402-3319			EXAMINER HERNANDEZ, MICHAEL	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 11/23/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/507,542	<b>Applicant(s)</b> WILMS ET AL.	
	<b>Examiner</b> Mike Hernandez	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 1-13 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6, 14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### DETAILED ACTION

NOTE: This action replaces the previous action filed 8/29/07 and finality is hereby withdrawn.

Claims 1 to 13 and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made with traverse in the reply filed on 4/16/07.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 14, 15, 16, 18, 19, and 20 are rejected** under 35 U.S.C. 102(b) as being unpatentable over German Pat NO DE 44 04 618 to Fussnegger, et al.

Regarding claims 14 and 18, Fussnegger, et al. discloses (Fig 5-8) a vehicle having a body including at least a fixed roof and having a roof assembly for opening an opening 13 in said roof, comprising a plurality of closure elements 32a-e, said closure elements are at least movable between a closed position for closing the roof opening, and an open, rearwardly displaced position substantially below the fixed roof, wherein the roof assembly further comprises at least one common longitudinal guide track 33 extending at least along the roof opening, said closure elements being guided by said longitudinal guide track by means of slide shoes 68,69, said guide track including storage tracks 37a-e opening into the guide track from below in order to accommodate

the slides of the closure elements so as to stack the closure elements one above the other in their open position below the fixed roof. Fussnegger, et al. further discloses the closure elements have side sections, the side sections of two adjacent closure elements being in sliding engagement with each other when these adjacent closure elements are in a stacked position.

As to claims 15 and 19, Fussnegger, et al. discloses the closure elements have a front 69 and rear 68 slide shoes, a front portion of the longitudinal guide track extending at a higher level than a rear portion thereof, the rear portion of the longitudinal guide track having an upper side branch 38 to accommodate the rear slide shoe of the rear closure in the closed position of the roof assembly, while all other slide shoes are in the higher front portion of the guide track. It is an obvious expedient to shape the slide shoes differently from the front to the rear of the roof sections.


As to claims 16 and 20, Fussnegger, et al. discloses one front closure element is operatively connected to a drive and wherein the closure elements are connected to each other through disconnectable connecting members, which are constructed such that they disconnect the closure elements before they are stacked in the open position, and they connect the closure elements again when they are returned to the closed position, wherein the connecting members are adapted such that they only act when there is exerted a pulling force on the closure elements, while the closure elements are provided with separate pushing surfaces acting to push a preceding closure element when a pushing force is exerted on the closure element.


**Conclusion**

This action is based upon new grounds of rejection and therefore is NON-Final. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Hernandez whose telephone number is 571-272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
MJH 11/20/07

  
DENNIS H. PEDDER  
PRIMARY EXAMINER  
AV 3612 11/19/07